

REMARKS

Claims 1-20 remain in this application. Claims 1, 9 and 16 have been amended.

I. CLAIM REJECTIONS UNDER 35 U.S.C. § 112

A. Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner found that the limitations of (1) “a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server” and (2) “providing the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server,” as claimed in independent Claims 1, 9 and 16, are not supported by the specification.

With respect to limitation (1) above, the Examiner further stated that the present application “states that when audio is played the IR application server merely buffers the streaming audio, see page 6, lines 1-3, which is different from storing a plurality of Internet Audio contents as claimed.” Applicant believes the Examiner is confusing the IP Application Server with the Internet Audio Gateway. Page 6, lines 1-3 of the present application states: “The audio is then played 1216 at the MS 130 by the IR Application Server 116 streaming the audio 1220 to the WSS 212, where it is buffered 1218, and then sent to the MS 130.” Thus, the buffering is performed at the WSS 212, not at the IR Application Server 116. The WSS 212 (Wireless Soft Switch) is within the Internet Audio Gateway 114, as shown in the Figures and described on page 2, lines 32-34.

Applicant also refers the Examiner to page 4, lines 9-12 of the present application, where it states: “A voice connection is then established 612 between the MS 130 and the IR Application Server 116. Audio is then sent from the IR Application Server 116 to the MS 130. Specifically, the IR Application Server 116 streams 618 the audio to the WMG 214 and then the WMG 214 buffers 616 the audio and then sends it to the MS 130.” Therefore, Applicant respectfully submits that there is sufficient support in the specification for limitation (1) as currently recited in independent Claims 1, 9 and 16, and as such Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 112, first paragraph, rejections of Claims 1-20 based on limitation (1).

With respect to limitation (2) above, namely, “providing the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server,” Applicant has amended Claims 1, 9 and 16 to more clearly recite that an “indication of the selection” is sent to the IR Application Server and not the actual selection itself. Support for this amendment can be found on page 5, lines 1-15 of the present application. For example, as stated on page 5: “The IR Application Server 116 then sends 1010 a Dallas Menu 404 to the Operator Application Server 302 with local selections to choose from. The Operator Application Server 302 then sends 1012 the Dallas Menu 404 to the MS 130. The user then selects from the Dallas Menu 404 and sends 1014 the encoded selection to the Operator Application Server 302. The Operator Application Server 302 then sends 1016 the selection to the IR Application Server 116.”

It is clear from the description of the present application that the actual “selection” (i.e., the audio content itself) is not sent from the MS to the IR Application Server, but rather the user’s choice or the “selection” that the user made. To more clearly point out this distinction, Applicant has amended Claims 1, 9 and 16, as described above, to now recite “an indication” of the selection is sent from the MS to the IR Application Server. Therefore, Applicant respectfully submits that there is sufficient support in the specification for limitation (2), as amended, in independent Claims 1, 9 and 16, and as such Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 112, first paragraph, rejections of Claims 1-20 based on limitation (2).

B. Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-20 further stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, regarding Claims 1 and 16, the Examiner found that the phrase “having access to a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server to register the MS with the Internet Audio Gateway” was unclear.

To clarify Applicant’s invention, Applicant has amended Claims 1 and 16 to now recite “establishing a connection from the PDSN to an Internet Audio Gateway to register the MS with the Internet Audio Gateway, the Internet Audio Gateway having access to a plurality of Internet

Audio contents stored on an Internet Radio (IR) Application Server.” Therefore, Claims 1 and 16 should now be clear.

Moreover, the Examiner found that the limitation in Claims 1, 9 and 16 of “providing the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server” was unclear. As described above, Applicant has now amended Claims 1, 9 and 16 to recite that it is “an indication” of the selection that is sent to the IR Application Server and not the “selection” (i.e., audio content) itself. Therefore, Claims 1, 9 and 16 should also now be clear, and as such, Applicant respectfully requests the Examiner to withdraw the § 112, second paragraph, rejections of Claims 1-20.

II. REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hsu et al. (US Patent Application Publication No. 2003/0134622) in view of Dusse (US Patent Application Publication No. 2002/0068554). Applicant respectfully submits that these rejections are overcome for the exemplary reasons provided below.

A. “Internet Audio Gateway”

On pages 5-6 of the Office Action, the Examiner likened the “Base Station” in Hsu et al. to the claimed “Internet Audio Gateway” and stated that “the BS is the Internet Audio Gateway which establishes the connection from the PDSN to MS, ... wherein the BS sets the field HSBS_REG_USED ... to register the MS with the BS/Internet Audio Gateway.” However, Claims 1, 9 and 16 do NOT claim that the Internet Audio Gateway (i.e., BS) establishes a connection from the PDSN to the MS, but in fact, claim the opposite, that the PDSN establishes a connection with the Internet Audio Gateway “upon establishing the PPP session” between the MS and the PDSN. As claimed, the PPP session between the MS and the PDSN is already established when the connection to the Internet Audio Gateway is made. Applying this to Hsu et al., once the connection between the MS and the PDSN (which MUST go through the BS, as shown in the Figures and described in the specification), it would not make sense to go back and re-connect to the BS yet again (the connection is already there).

More particularly, the PDSN in Hsu et al. is not described as being able to perform the specifically claimed feature of “establishing a connection from the PDSN to an Internet Audio Gateway,” since in Hsu et al., it is the BS that establishes the connection to the PDSN. Stated another way, the PDSN does not establish a connection to the BS. It would not make sense for the connection to be established this way, since the connection is originated from the MS and must pass through the BS to reach the PDSN. Therefore, Applicant respectfully submits that Hsu et al.’s claimed “Base Station” does not read on or teach an “Internet Audio Gateway,” as claimed in the present application. In addition, Applicant can find no teaching or suggestion of any node that operates as an Internet Audio Gateway that the MS registers with and that has “access to a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server” within Hsu et al.

B. “WAP gateway”

Moreover, on pages 5-6 of the Office Action, the Examiner likened the “MS” in Hsu et al. to the claimed “WAP gateway” and stated that the “MS acts as the WAP gateway together with the WAP disclosed.” Applicant is unsure how the MS can “act as the WAP gateway” when the claims specifically recite “establishing a Wireless Application Protocol (WAP) Browser session between the MS and a WAP gateway.” As is clear from the claims, the MS cannot be the WAP gateway, since it would not make sense for the MS to establish a browser session with itself. Therefore, the MS in Hsu et al. does not read on or teach a “WAP gateway” as claimed in the present application. In addition, Applicant can find no teaching or suggestion of any node operating as a WAP gateway that is “coupled to the IR Application Server to provide the plurality of Internet Audio contents to the MS to select from” within Hsu et al.

On page 2 of the Office Action, the Examiner further argued that Hsu et al. discloses “the CS 202 advertises through a broadcast service to the system users wherein any user desiring to receive the HSBS service may subscribe with the CS 202 ... wherein the broadcast content is communicated through Wireless Application Protocol (WAP), see paragraph 0059.” Although Hsu et al. does mention the use of a WAP protocol, Hsu et al. does not mention or suggest that a WAP gateway would be used to facilitate the WAP protocol. Hsu et al. merely states that the CS

202 could use the WAP protocol to provide broadcast content to the MS. Therefore, again, Applicant respectfully submits that there is no teaching or suggestion in Hsu et al. of a “WAP gateway,” as claimed in the present application.

C. “...providing an indication of the selection ...”

Furthermore, Applicant respectfully submits that the combination of Hsu et al. and Dusse does not teach or suggest “providing an indication of the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server; receiving a call from the MS at the Internet Audio Gateway, the call including a mobile identity identifying the MS within a network; [and] using the mobile identity to retrieve the selection of the plurality of Internet Audio contents from the IR Application Server,” as recited in Claims 1, 9 and 16 of the present application.

In the Office Action, the Examiner did not even address the limitation of “providing an indication of the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server.” Therefore, if the Examiner believes that this feature is taught by the combination of Hsu et al. and Dusse, Applicant respectfully requests the Examiner to issue a new Office Action that specifically points out where this claim limitation can be found in the references.

In view of the foregoing discussion, Applicant respectfully submits that the combination of Hsu et al. and Dusse does not teach each and every element of independent Claims 1, 9 and 16 (and their dependent Claims) arranged as they are in the claims. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 103(a) rejections of Claims 1-20.

CONCLUSION

For the above reasons, the foregoing amendment places the Application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact Holly Rudnick at (214) 387-8097.

Respectfully submitted,
GARLICK HARRISON & MARKISON

Dated: March 5, 2009

/Holly L. Rudnick/
Holly L. Rudnick
Reg. No. 43,065

Garlick, Harrison & Markison
P.O. Box 160727
Austin, Texas 78716-0727
(Direct) (214) 387-8097
(Fax) (214) 387-7949
(Email) hrudnick@texaspatents.com